

MOTION REGARDING EXECUTIVE SESSION

On motion of Senator McKinnon and by unanimous consent, the nomination of Dr. J. W. Edgar was added to those to be considered at the Executive Session tomorrow.

MEMORIAL RESOLUTION

S.R. 93 - By Senator Blanchard: Memorial resolution for Dr. Clifford Bartlett Jones.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 30 - By Senator Gammage: Extending congratulations to George Foreman.

S.R. 90 - By Senator Kothmann: Extending congratulations to sponsors of Texas Trade Fair.

S.R. 91 - By Senator McKinnon: Extending congratulations to Freddie Martinez.

S.R. 92 - By Senator Clower: Extending welcome to Barath Rengarajan.

S.R. 94 - By Senators McKnight and Aikin: Extending congratulations to East Texas State University football team.

S.R. 95 - By Senators Schwartz, Herring and Santiesteban: Extending congratulations to The Right Reverend Monsignor Bernard J. Ganter.

RECESS

On motion of Senator Aikin the Senate at 11:35 o'clock a.m. took recess until 10:30 o'clock a.m. tomorrow.

SEVENTEENTH DAY

(Continued)
(Thursday, February 8, 1973)

After Recess

The Senate met at 10:30 o'clock a.m., and was called to order by Senator Aikin.

The Reverend Joe Cochran of Westminster Presbyterian Church, Austin, offered the invocation as follows:

O God, whom we have learned to call our Father, grant to these servants of yours and ours along with the gifts of eloquence and persuasion the gift of discernment, so that as they engage in the ministries of speaking and listening, they may be able to separate things trivial from things important, and by their choice here in this place do your work on earth both for your honor and our common good. Amen.

SENATE RESOLUTION 96

Senator Wallace offered the following resolution:

WHEREAS, The nation was charmed and touched by the angelic face of little Miss Paula Pheifer of Tulsa, Oklahoma, the 1973 March of Dimes National Poster Girl for Birth Defects; and

WHEREAS, The Members of the Texas Senate were saddened to learn that Paula is currently in the Texas Children's Hospital in Houston, Texas, and is scheduled to undergo surgery next week; and

WHEREAS, Paula has undergone major surgery more than fourteen times during her young life, and throughout these operations, she has maintained her happy and vibrant personality and has exhibited great courage and strength of character; now, therefore, be it

RESOLVED, That the Senate of the 63rd Legislature congratulate Paula Pheifer on her great courage and character; and that we express to her our sincere and heartfelt wishes for a speedy recovery, and our hope that the future will hold for her a full and happy life; and be it further

RESOLVED, That copies of this Resolution be prepared, under the official seal of the Senate of Texas, and presented to her and her family as an indication of our admiration for her.

The resolution was read.

On motion of Senator Gammage and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Wallace, the resolution was adopted.

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, February 8, 1973

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

February 7, 1973, The House has adopted the Conference Committee Report on S.C.R. 1 by a vote of 121 ayes, 24 noes.

H.C.R. 32, Commending George Foreman.

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

**COMMUNICATION FROM LEGISLATIVE
AUDIT COMMITTEE**

The following communication from the Legislative Audit Committee was read and referred to the Committee indicated:

Austin, Texas
February 6, 1973

TO THE SENATE OF THE SIXTY-THIRD LEGISLATURE, REGULAR SESSION:

We ask the advice, consent and confirmation of the Senate with respect to the appointment by this Committee of George W. McNiel of Austin, Travis County, to be State Auditor of Texas for the term expiring February 15, 1975.

Such appointment on this date is hereby certified under the provisions of Senate Bill 27 as passed by the Forty-eighth Legislature.

Respectfully submitted,

Legislative Audit Committee

Attest:

W. P. HOBBY
Lieutenant Governor

PRICE DANIEL
Speaker of the House
of Representatives

A. M. AIKIN, JR.
Chairman of the Senate
Committee on Finance

NEIL CALDWELL
Chairman of the House Committee
on Appropriations

WILLIAM T. MOORE
Chairman of the Senate
Committee on State Affairs

TERRY DOYLE
Chairman of the House Committee
on Revenue and Taxation

To Committee on Administration.

CO-AUTHOR OF SENATE RESOLUTION 97

On motion of Senator Meier and by unanimous consent, Senator Andujar will be shown as Co-author of S.R. 97.

REPORTS OF STANDING COMMITTEES

Senator Sherman submitted the following reports for the Committee on Natural Resources:

S.J.R. 1

Nominations of Thomas F. Jenkins and Frank L. Jennings to be Members of the Gulf Coast Waste Disposal Authority.

Nomination of Bob Bowman to be a Member of the Neches River Conservation District Board of Directors.

Nomination of Ogden D. (Buster) Dooley to be a Member of the Nueces River Authority.

Senator Aikin submitted the following report for the Committee on Finance:

S.B. 14

Senator Moore submitted the following reports for the Committee on State Affairs:

S.B. 130
S.B. 60 (Amended)

S.J.R. 7 (Adversely)
S.C.R. 21

SENATE RESOLUTION 98

Senator Aikin offered the following resolution:

WHEREAS, Walter H. Mengden, Sr., father of our distinguished colleague, the Honorable Walter H. Mengden, Jr., will observe a birthday on February 8, 1973; and

WHEREAS, Mr. Mengden's life is a realization of the "American Dream," that born of adversity one can achieve success and wealth through hard work and enterprise. He was the son of German immigrants in the notorious Chicago Southside but overcame the environment which spawned Al Capone and other infamous gangsters of the 1920's; and

WHEREAS, As a determined and ambitious young man, he worked his way through the University of Illinois by serving in a boarding house and doing other menial tasks. He also played football for the University though not aided by an athletic scholarship, and

WHEREAS, Upon graduation and with undaunted resolve Mr. Mengden moved to Houston, Texas, to begin his career and to seek his fortune. There he met and married Eugenia Crawford; and

WHEREAS, On applying the dynamic qualities of his character within the oil industry of Texas, he advanced to vice president of Superior Oil Company and concurrently president of the company's international operations. Under his leadership, Superior Oil discovered the third largest oil reserve in the Western Hemisphere at Lake Maracaibo in Venezuela; and

WHEREAS, Even after retirement from Superior Oil, Mr. Mengden continued to be active in oil exploration and brought in so many wells in virgin territory that he has frequently been called "Mr. Wildcatter", and

WHEREAS, After years of active interest in government at all levels, he served as finance chairman in his son's successful campaign for the Texas Senate, and

WHEREAS, The accomplishments of Walter H. Mengden, Sr., are indeed exemplary and have contributed to the economic growth of the State of Texas; now, therefore, be it

RESOLVED, That the Senate of the 63rd Legislature of the State of Texas congratulate Walter H. Mengden, Sr., on the celebration of his birthday and commend him for his distinguished achievements and his adopted State of Texas, and, be it further

RESOLVED, That an official copy of this Resolution be prepared for Walter H. Mengden, Sr., as an expression of good wishes to him and highest esteem from the Senate of Texas.

The resolution was read.

On motion of Senator Sherman and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sherman, the resolution was adopted.

SENATE CONCURRENT RESOLUTION 25 ON SECOND READING

On motion of Senator Adams and by unanimous consent, the regular order of business was suspended to take up for consideration at this time the following resolution:

S.C.R. 25, Granting permission to Wilma Perkins Jorgenson to sue the

State of Texas.

The resolution was read second time.

Senator Adams offered the following Committee Amendment to the resolution:

Amend S.C.R. 25 by striking all resolving clauses and substituting the following:

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the said Wilma Perkins Jorgenson, James I. Perkins, and Morinne T. Perkins are hereby granted permission to sue the State of Texas within a period of two years after the effective date of this resolution in any court in Texas having jurisdiction; and, be it further

RESOLVED, That service of citation and all other necessary processes may be had upon the Attorney General of the State of Texas, at Austin, Texas, and that said suit shall be tried under the same rules of law, liability, and evidence and in like manner as suits instituted against private corporations are tried; and, be it further

RESOLVED, That nothing in this resolution shall be construed as an admission of liability or of any fact against the state and all facts set out herein or relied on by plaintiff to recover must be proved in court; and, be it further

RESOLVED, That nothing contained in this resolution shall constitute a waiver of any defense available to the State of Texas other than the defense of sovereign immunity to be sued without legislative permission.

The Committee Amendment was read and was adopted.

The resolution as amended was then adopted.

**COMMITTEE SUBSTITUTE
SENATE CONCURRENT RESOLUTION 24
ON SECOND READING**

On motion of Senator Adams and by unanimous consent, the regular order of business was suspended to take up for consideration at this time the following resolution:

C.S.S.C.R. 24, Granting permission to Paul Glass to sue State of Texas.

The resolution was read and was adopted.

**SENATE CONCURRENT RESOLUTION 23
ON SECOND READING**

On motion of Senator Adams and by unanimous consent, the regular order of business was suspended to take up for consideration at this time the following resolution:

S.C.R. 23, Granting permission to W. D. Harper, et al., to sue State of Texas.

The resolution was read second time.

Senator Adams offered the following Committee Amendment to the resolution:

Amend S.C.R. No. 23 by striking all resolving clauses and substituting

the following:

RESOLVED, by the Senate of the State of Texas, the House of Representatives concurring, That the said W. D. Harper and/or his estate, Bessie Harper, Mattie Lou Harper Todd, Gwendolyn Harper Gay, and J. A. Harper are hereby granted permission to sue the State of Texas within a period of two years after the effective date of this resolution in any court in Texas having jurisdiction; and, be it further

RESOLVED, That service of citation and all other necessary processes may be had upon the Attorney General of the State of Texas, at Austin, Texas, and that said suit shall be tried under the same rules of law, liability, and evidence and in like manner as suits instituted against private corporations are tried; and, be it further

RESOLVED, That nothing in this resolution shall be construed as an admission of liability or of any fact against the state and all facts set out herein or relied on by plaintiff to recover must be proved in court; and, be it further

RESOLVED, That nothing contained in this resolution shall constitute a waiver of any defense available to the State of Texas other than the defense of sovereign immunity to be sued without legislative permission.

The Committee Amendment was read and was adopted.

The resolution as amended was then adopted.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

By Senator Schwartz:

S.B. 197, A bill to be entitled An Act authorizing the Commissioners' Court of any county in this State which is a member of a regional planning commission whose planning area encompasses at least one county which has a population of 1.5 million persons or greater to promulgate and enforce regulations governing the environmental management and development of the unincorporated area of the county by promulgating subdivision regulations prescribing sizes, arrangements of lots, blocks, and streets, specifications for improvements dedication of rights-of-way and easements, scope and extent of performance and maintenance bonds, procedures for recordation methods for participating in restrictive covenants and enforcement; land planning regulations prescribing the density of population, spatial relationship of structures, safety and adequacy of transportation and vehicular storage facilities; public safety regulations prescribing flood plain management, prevention of erosion and siltation, proper solid waste disposal, restricting septic tank use; defining subdivisions, providing for the establishment of an environmental management board and procedures related thereto; requiring the adoption or acceptance of a county-wide comprehensive plan, explaining methods and procedures for the adoption of such regulations, providing procedures with municipalities and having concurrent jurisdiction with counties for subdivision and land planning matters, forbidding the recordation of any subdivision plat for the unincorporated area of the county without appropriate approval of the county having adopted regulations pursuant to this Act, providing for criminal enforcement of a fine of not less than Fifty dollars (\$50) nor more than One Thousand dollars (\$1,000) each day a violation persists, authorizing the county or any city when the land lies in the city's extraterritorial jurisdiction to enjoin any violation of the county's environmental management regulations, providing for severability; and declaring an emergency.

To Committee on Intergovernmental Relations.

By Senator Schwartz:

S.B. 198, A bill to be entitled An Act relating to the authority of the commissioners courts of certain counties to order street improvements and assessments; and declaring an emergency.

To Committee on Intergovernmental Relations.

By Senator Schwartz:

S.B. 199, A bill to be entitled An Act authorizing the Commissioners' Court of any county which is a member of a regional planning commission whose planning area encompasses at least one county wherein there is a population of 1.5 million or more to promulgate and enforce uniform building codes throughout the unincorporated areas of the county, defining structures and exceptions thereto; permitting the county to establish an office for building permits, to contract such work, and to charge fees; establishing a Board of Building Appeals and procedures related thereto; authorizing the county to enjoin any violation of this Act; establishing a criminal penalty of a fine not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000) for any violation of any regulation passed by the Commissioners' Court pursuant to this Act; providing for severability; and declaring an emergency.

To Committee on Intergovernmental Relations.

By Senator Schwartz:

S.B. 200, A bill to be entitled An Act relating to a system of land-use management; prescribing penalties; and declaring an emergency.

To Committee on Economic Development.

By Senator Ogg:

S.B. 201, A bill to be entitled An Act creating the 245th, 246th, 247th, 248th, 249th, and 250th Judicial Districts, each composed of Harris County; amending Subchapter C, Judicial Districts Act of 1969, as amended (Article 199a, Vernon's Texas Civil Statutes), by adding new Sections 3.042, 3.043, 3.044, 3.045, 3.046, and 3.047; and declaring an emergency.

To Committee on State Affairs.

By Senator Brooks:

S.B. 202, A bill to be entitled An Act amending the following Articles of the Texas Business Corporation Act: Subsection (10), Section A, Article 1.02; Section A, Article 2.01; Section A, Article 2.02; Section D, Article 2.03; Section F, Article 2.03; Section B, Article 2.12; Section A, Article 2.13; Section E, Article 2.15; Article 2.19, as amended; Article 2.20; Article 2.22, as amended; Article 2.23; Article 2.24; Section A, Article 2.29, as amended; Section D, Article 2.29, as amended; Article 2.32; Article 2.35; Article 2.36; Article 2.44; Section A, Article 3.02, as amended; Article 3.06; Section A, Article 4.02; Section A, Article 4.04; Section A, Article 4.07; Section A, Article 5.11, as amended; Article 5.14, as amended; Article 6.01, as amended; Section A, Article 8.05; Section A, Article 8.06; Article 8.07; Article 9.08; and Article 9.10, as amended; repealing Section C, Article 4.03, as amended; and Section B, Article 4.04, as added; and adding Articles 2.02-1, 2.14-1, 2.22-1, 2.30-1, 2.30-2, 2.30-3, and 8.04-1; and declaring an emergency.

To Committee on Economic Development.

By Senator Jones:

S.B. 203, A bill to be entitled An Act relating to a competitive rating system for motor vehicle or automobile insurance, fire insurance, and allied lines; providing for construction of and the purposes of Subchapter I of the Insurance Code; providing definitions of certain terms used in Subchapter I of the Insurance Code; providing the scope of Subchapter I of the Insurance Code; requiring the State Board of Insurance to promulgate reasonable rules and statistical plans for gathering information from insurers and allowing the board to use rate service organizations; authorizing interchange of loss experience necessary for the application of rating plans; authorizing exchange of

information and experience data with other states; authorizing consultation with other states on certain matters; providing standards for rates adopted under Subchapter I of the Insurance Code; providing rating methods to be used in determining if rates comply with rate standards; requiring the filing of rates; providing that rate filings are open to inspection; providing for board approval of a new rate or an amendment for 90 days after a rate or rate change is filed; authorizing an insurer to make and file its own rates or have it done by a rate service organization as defined in this Act; providing procedures and remedies to handle cases of noncompliance with Subchapter I of the Insurance Code; authorizing the board to require specific insurers to abide by certain filing procedures; providing for notice, hearing, and appeal on grievances; placing restrictions on agreements by insurers; providing for standard average rates; providing a money penalty in lieu of suspension or cancellation of a license or certificate of authority; relating to revising rates; providing that the Act will take effect on September 1, 1973; adding Subchapter I to Chapter 5, Insurance Code; amending Articles 1.04, 5.01, as amended, 5.03, as amended, 5.25, and 5.34, Insurance Code; repealing Article 5.26 of the Insurance Code and other laws in conflict to the extent of the conflict; providing for severability; and declaring an emergency.

To Committee on Economic Development.

By Senator Mengden:

S.B. 204, A bill to be entitled An Act requiring the judge to assess sentence in all criminal cases in this state; amending Article 37.07, Code of Criminal Procedure, 1965, as amended; and declaring an emergency.

To Committee on Jurisprudence.

By Senator Schwartz:

S.J.R. 12, Proposing an amendment to Section 7, Article XI of the Constitution of the State of Texas; amending Section 7 to provide that certain counties and cities bordering on the Gulf of Mexico may levy a tax to pay for bonds issued for the construction of sea walls and breakwaters upon the vote of the majority of the resident property taxpayers voting in an election.

To Committee on State Affairs.

CHANGE IN EXECUTIVE SESSION

Senator McKinnon asked unanimous consent that the time for the Executive Session for which he gave Notice on yesterday for 11:30 o'clock a.m. be changed to 11:00 o'clock a.m. today.

LEAVE OF ABSENCE

Senator Mauzy was granted leave of absence for today on account of important business with the Lieutenant Governor in Dallas County on motion of Senator Hightower.

EXECUTIVE SESSION

Senator McKinnon announced that the time had arrived for an Executive Session of the Senate.

Accordingly, the Presiding Officer (Senator Aikin in Chair) at 11:00 o'clock a.m. directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

At the conclusion of the Executive Session, the Presiding Officer called the Senate to order As In Legislative Session at 11:22 o'clock a.m. today.

Senator McKinnon moved confirmation of the nominees heard in Executive Session.

Senator Ogg moved the severance of Mrs. LaVerne A. Dobbs to be a Member of the Texas Civil Judicial Council and that action on Mrs. Dobbs' nomination be withheld pending receipt of a communication from Mrs. Dobbs' withdrawing her nomination.

The motion prevailed.

NOMINEES CONFIRMED

TEXAS CIVIL JUDICIAL COUNCIL

Richard M. Morehead, of Austin, Travis County, term to expire July 1, 1977.

STATE COMMISSIONER OF EDUCATION

For a four-year term beginning June 1, 1973, and ending May 31, 1977:
Dr. J. W. Edgar, of Austin, Travis County.

COASTAL INDUSTRIAL WATER AUTHORITY BOARD OF DIRECTORS

Buster Eugene French, Deer Park, Harris County, term to expire March 31, 1974.

TEXAS BOARD OF CORRECTIONS

John S. Justin, Jr., Fort Worth, Tarrant County, term to expire February 2, 1973.

MOTOR VEHICLE COMMISSION

William D. Lawrence, Jr., of Tyler, Smith, County, term to expire September 1, 1973;

Jack E. Ray, of Austin, Travis County, term to expire September 1, 1973.

EGG MARKETING ADVISORY BOARD

Edgar H. Burton, of Lufkin, Angelina County, term to expire September 27, 1973;

Roy K. Furr, of Lubbock, Lubbock County, term to expire September 27, 1975;

Terms to expire September 27, 1977:

Truman D. Craddock, of Hamilton, Hamilton County;

Robert H. Joe, of Houston, Harris County; and

Thomas P. Metcalfe, of Franklin, Robertson County.

LOWER COLORADO RIVER AUTHORITY

For terms to expire January 1, 1979:

Cecil B. Long, of Bastrop, Bastrop County;

Eli Mayfield, of Palacios, Matagorda County;

Tom Dean, of Cherokee, San Saba County; and

The Honorable Charles Jungmichel, of LaGrange, Fayette County.

CREDIT UNION COMMISSION

Mrs. Bessie P. Heard, of Houston, Harris County, term to expire February 15, 1975.

UPPER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS

For terms to expire January 1, 1979:

W. L. (Mac) McKinney, of San Angelo, Tom Green County;
Philip Albert Lorring, of Lowake, Concho County; and
Robert D. Vaughan, of Robert Lee, Coke County.

TEXAS COMMISSION ON SERVICES TO CHILDREN AND YOUTH

Elam W. (Bill) Wright, III, of Austin, Travis County, term to expire January 1, 1975.

TEXAS COMMISSION ON ALCOHOLISM

Gerald A. Jackson, of Dallas, Dallas County, term to expire June 8, 1973; and

Roy J. German, of Austin, Travis County, term to expire June 8, 1977.

The nominees were confirmed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Absent-excused: Mauzy.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 32 - Extending congratulations to George Foreman.

S.R. 97 - By Senators Meier and Andujar: Extending welcome to PTA Council of Fort Worth.

ADJOURNMENT

On motion of Senator Blanchard the Senate at 11:29 o'clock a.m. adjourned until 11:00 o'clock a.m. Monday, February 12, 1973.

APPENDIX

February 8, 1973

Senator Mike McKinnon
Chairman, Senate Nominations
Subcommittee
Room 211

Dear Senator McKinnon:

Please be advised that pursuant to action by the Senate, the appointment of Mrs. LaVerne A. Dobbs, of Houston, Harris County, to the Texas Civil Judicial Council was postponed for further consideration and is hereby returned to the Subcommittee on Nominations.

Sincerely yours,
Charles A. Schnabel
Secretary of the Senate

EIGHTEENTH DAY
(Monday, February 12, 1973)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Traeger, Wallace and Wolff.

The following Senator was absent-excused: Snelson.

A quorum was announced present.

The Reverend Boyd Harris of Grace United Methodist Church, Austin, Texas, offered the invocation as follows:

O God, we recognize you to be the creator of all men and all things. Enable us to be faithful men in the midst of pressures and conflicts. Take our troubled spirits and help us to find peace in loving and serving you.

Grant wisdom and guidance to these Senators as they struggle to shape law and justice for all people in our great State. Teach them compassion tempered with justice and mercy. Lead them throughout every deliberation of today. In Jesus' name. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 8, 1973, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Snelson was granted leave of absence for today on account of important business on motion of Senator Sherman.

REPORTS OF STANDING COMMITTEE

Senator Creighton submitted the following reports for the Committee on Economic Development:

Nomination of Ray Kirkpatrick, to be Chairman, State Board of Insurance.

Nominations of Floyd L. Dellinger, Sherman S. Fricks, George R. Brown, H. H. (Country) Reynolds, Joseph L. Allbritton, Captain William F. Fredeman, P. Burgess Griesenbeck and Pete S. Miller to be Members of the Texas Offshore Terminal Commission.